IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
JAIPUR
ORDER
S.B. Civil Writ Petition No.6636/02
Jaipur Vidyut Vitran Nigam Ltd.
Vs.
Gram Panchayat, Talwada & Ors.

Date of Order :: 13th March, 2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Deepak Saraswat for Shri R.K. Agarwal for petitioner.
Shri Manish Sharma for respondent no.1

REPORTABLE

Challenge in this writ petition has been made to the judgment dated 19.6.2002 passed by Additional District Collector, Sawaimadhopur whereby he allowed the revision petition of the respondent no.1 and cancelled the patta issued in favour of the petitioner by Gram Panchayat and challenge has also been made to the judgment dated 16.3.1992 in so far as it seeks to declare Raghunandan Singh, the then Sarpanch of the Gram Panchyat as

khatedar of the land of khasra no.1293. The petitioner Jaipur Vidyut Vitran Nigam Ltd. needed a land for erecting its Grid Sub-station at Talawada in district Sawaimadhopur. The then Sarpanch of the Gram Panchayat, Talawada, Raghunandan Singh voluntarily offered to transfer the land measuring about 1-1/2 bigha to the Rajasthan State Electricity Board out of land comprising of khasra no.117. Khasra no.117 was then recorded as Siwai Chak in revenue record. Dimension of the land allotted was 75 yards east-west and 60 years north-south totalling to 4500 sq. yards. Patta in favour of the Rajasthan State Electricity Board was issued by the Gram Panchayat on 21.12.1982 which has been placed on record at Annexure-1. The patta was issued in accordance with the provisions of Rule 266 of the Rajasthan

Panchayat & Nyaya Panchayat General Rules, 1961 under the signature of the then Sarpanch Shri Raghunandan Singh. The old khasra no.117 was numbered as khasra no.1293 in the subsequent settlement. Entry in regard to existence of the sub-stations was duly made in the revenue records.

According to petitioner, Shri Raghunandan Singh later had a change of mind and he filed a revenue suit under Section 188 of the Rajasthan Tenancy Act, 1955 in the Court of Sub-Divisional Officer, Gangapur City, inter alia with the prayer that he had declared khastedar of the lands of old khasra no.117 as 1292, 1293 and 1296 and accordingly necessary entries be ordered to be made in the revenue records. The petitioner has placed on record the letter of

Tehsildar, Gangapur City dated 27.8.2001 which was addressed to their Assistant Engineer (Distribution), Jaipur Vidyut Vitran Nigam Ltd., Gangapur City informing that the lands of khasra no.177 measuring 15 bighas and 2 biswas was recorded as sawai chak in jamabandi of Svt. 2027-2030 and further as p*adat pakhar* in jamabandi in Svt. 2031 to 2034. It was informed that the Electricity Grid Station was recorded in the lands of khasra no.1293/1.26. The revenue suit filed by the petitioner was decreed by the S.D.O. by his order dated 16.3.1992. Surprisingly however, the then Sarpanch of the Gram Panchayat, knowing fully well that the electricity Grid Sub-Station was in existence on the part of the lands of khasra no.1293, did not implead Rajasthan State Electricity Board as party

respondent. Aforesaid judgment and decree dated 16.3.1992 was obtained by the said Raghunandan Singh behind the back of the petitioner. Rahunandan Singh and his son Bhanwar Singh attempted to trespass on the premises of the Grid Station. The petitioner then approached the Additional District Collector, Gangapur City for restraining them from interfering with their possession by filing an application dated 6.3.2001. The First Information Report No.185/01 was also lodged against them for offences under Section 447 IPC with Police Station Gangapur City on 15.3.2001. Even though no appeal against the patta issued to the petitioner was filed by any party before the Panchayat Samiti. But then, Raghunandan Singh managed to get revision petition filed against the said patta by the Gram

Panchayat in connivance with the then Sarpanch Ramjilal Baswal on 4.10.2002. The revision petition was allowed by the Additional District Collector vide his order dated 19.6.2002. According to the petitioner the said Raghunandan Singh has also filed the civil suit in the Civil Court at Gangapur City in which he did not dispute that he gave the consent letter dated 13.7.1981 for allotment of the land in favour of the petitioner and thereafter himself issued the patta dated 21.12.82 as Sarpanch of the Gram Panchayat. The Additional District Collector however still allowed the revision petition thereby setting aside the patta dated 21.12.82.

I have heard Shri Deepak Saraswat, the learned counsel for the petitioner and Shri Manish Sharma, the learned

counsel for the respondent no.1

Shri Deepak Saraswat, the learned counsel for the petitioner argued that the learned Additional District Collector has committed serious illegality in entertaining the revision petition filed under Section 97 read with Section 98 of the Rajasthan Panchayati Raj Act, 1994 against the patta issued to the petitioner way back on 21.12.82 after almost ten years thereof. The learned Additional District Collector has solely based its order on the judgment dated 16.3.1992 passed by the S.D.O., Gangapur City declaring Raghunandan Singh as Khatedar of the lands of khasra no.1292, 1293 and 1296. Such a judgment could not be read against the petitioner because the petitioner was not impleaded as a party respondents to the said revenue

suit and the judgment having been passed behind their back was liable to be ignored particularly when the allotment of the said land was made in favour of the petitioner on the basis of the letter of consent given by none other than Raghunandan Singh himself and patta was also issued by Raghunandan Singh. Learned Additional District Collector has failed to appreciate that when Raghunandan Singh filed civil suit in Civil Court, he did not dispute the correctness of these documents or the fact that they contained his signatures. The Additional District Collector failed to appreciate the provisions of Section 61 of the Rajasthan Panchayati Raj Act, 1994 provided for remedy of appeal before Panchayat Samiti according to which the period of limitation for filing appeal is

only 30 days excluding the period taken in obtaining the certified copy. Just because the appeal against the allotment of land and issuance of patta was not filed within the period of 30 days, the revisional powers of the Additional Collector could not be invoked by the Additional District Collector. Raghunandan Singh was fully aware that not only the land had been alloted to the petitioner but he himself had issued the patta in the capacity of Sarpanch of the Gram Panchayat. Since the decree was obtained behind the back of the petitioner, it could not be allowed to be made use of against the petitioner to seek annulment of the patta and consequential removal of the Grid Sub-station which itself was meant for public utility. It was argued that Raghunandan

Singh in collusion with the later Sarpanch of the Gram Panchayat Ramjilal Baswal had acted malafidely and by securing impugned order have rather acted against the interest of justice. It was therefore prayed that the impugned orders be set aside and the writ petition be allowed in terms of the prayers contained therein.

On the other hand, Shri Manish Sharma, the learned counsel for respondent no.1 opposed the writ petition. He argued that Raghunandan Singh has been declared as the khatedar of the lands of khasra no.1293 by decree of the Revenue Court (SDO, Gangapur City) dated 16.3.1992, therefore, the petitioner could not insist on continuing in that land. The judgment and decree of the Revenue Court dated 16.3.1992 has

attained finality and the petitioner has not challenged the same before any appellate forum and, therefore, they are bound to abide by the same. The learned Additional District Collector did not commit any illegality in cancelling the allotment / patta issued in favour of the petitioner. He argued that the FIR lodged against the petitioner and the Sarpanch on investigation of the police was found worthless and, therefore final report was given. According to him, the Gram Panchayat did not have the authority to allot the land of a third party to the petitioner and, therefore, the patta issued in favour of the petitioner was bad in law. He has therefore prayed that the writ petition be dismissed.

I have given by thoughtful consideration to the arguments advanced

by learned counsel for the parties and perused the material on record.

The facts of the case are in fact startling. There should be no manner of doubt that establishment of electricity Sub-station was for the benefit of the residents of the Gram Panchayat and the consent given by the petitioner as the then Sarpanch of the Gram Panchayat need to be appreciated for that reason. In fact, it was Raghunandan Singh who himself issued the patta to the Rajasthan State Electricity Board on 21.12.1982. He did so in his capacity as Sarpanch of the Gram Panchayat. But then, he acted in his personal capacity when he filed the revenue suit. Even in the civil suit he did not take a categorical stand that the patta issued in favour of the petitioner was forged one. In fact, he did not at

all make disclosure of the factum of patta in the revenue suit and did not implead the petitioner as party to the revenue suit. It is strange why the Gram Panchayat had to take up the cause of Raghunandan Singh by filing the revision petition against the patta issued in favour of the petitioner instead of Raghunandan Singh himself approaching the Court. The irresistible conclusion that follows is that the present Sarpanch Ramji Lal was hand in glove with Raghunandan Singh and the learned Additional District Collector while allowing his revision petition could not read their design. If Raghunandan Singh wanted to challenge the patta issued to the petitioner, it was he who ought to have challenged the same and not the Gram Panchayat because this was a dispute

inter se between the petitioner on one and the Gram Panchayat on the other. The name of the public bodies like Gram Panchayat cannot be allowed to be misused for the benefit of a third party. A bare perusal of the order passed by learned Additional District Collector show that he has not given any reason whatsoever as to why he entertained the revision petition filed by the Gram Panchayat after an enormous delay of almost a decade and even if it was at all considered necessary to entertain the revision what was that extraordinary reason which made entertainment of such a revision petition necessary in the year 2002 against the patta issued in the year 1982. Reading the order passed by the learned Additional District Collector would clearly make it out that while

almost entire judgment has reproduced the arguments of either parties but conclusion and the reasoning in support thereof have been summed up in just last para of the order. The reasons given therein are also far too perfunctory to merit approval. Such a perfunctory order cannot therefore be allowed to stand in law. The learned Additional Collector has solely based his order on the earlier judgment passed by S.D.O. Gangapur City dated 16.3.1992 declaring Raghunandan Singh as khatedar tenant of khasra no.1293, but he has given no consideration at all to the fact that the revenue suit was filed by the same Raghunandan Singh who had issued the patta to the petitioner and therefore, in spite of the fact that he fully knew that the land in dispute was alloted to the

petitioner, yet he did not implead the petitioner as party respondent to that suit. It is difficult to appreciate how the judgment and decree passed in that suit, to which the petitioner was not a party, despite its prolonged possession on the strength of such patta over the land in dispute, could bind them. Curiously enough, the Gram Panchayat in revision petition before the Additional District Collector has taken a very strange stand that it has not issued any patta dated 21.12.82 in favour of the Rajasthan State Electricity Board and at the same time it took a contrary stand that Gram Panchayat could not allot the land of a third party to Rajasthan State Electricity Board. Such a stand can neither be appreciated nor accepted as bonafide. Moreover, the argument raised

on behalf of the Gram Panchayat that the judgment of the revenue court in revenue suit of Raghunandan Singh having not been challenged before the S.D.O. has attained finality also cannot be accepted because such an argument was available to Raghunandan Singh only which could not be raised by Gram Panchayat. Besides, the petitioner being not a party to the said revenue suit, the judgment passed by the S.D.O. behind its back could not bind it and obviously therefore not knowing about such suit it could neither apply to become party thereof nor challenge the same by filing appeal.

In view of what has been discussed above, I find this to be a fit case in which this Court in exercise of its power of supervisory jurisdiction under Article 227 of the Constitution of India should

interfere for the reason that the impugned orders suffer from error apparent on the face of record. The present writ petition therefore deserves to be allowed and is accordingly allowed. The judgment passed by the Additional District Collector dated 19.6.02 is set aside and also the judgment dated 16.3.92 passed by the S.D.O. Gangapur City is declared to be ineffective and inoperative qua the petitioner in so far as the land covered by patta dated 21.12.82 issued in its name by Gram Panchayat Talwanda is concerned.

The writ petition is accordingly allowed with no order as to costs.

(MOHAMMAD RAFIQ),J.

RS/-